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15	Attorneys for Movants CISCO SYSTEMS, INC., RICHARD FRENKEL, MALLUN YEN, JOHN NOH & MARK CHANDLER	
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1.0	UNITED STATES DISTRICT COURT	
18	NORTHERN DISTRICT OF CALIFORNIA	
19	ERIC M. ALBRITTON,	Miggellowana Ass' N
20	Plaintiff,	Miscellaneous Action No. CV 5:08-mc-80153-JW (HRL)
21		DECLARATION OF RICHARD
	1/6	FRENKEL IN SUPPORT OF
22	VS.	DEFENDANTS CISCO SYSTEMS, INC., RICHARD FRENKEL, MALLUN
23		YEN, JOHN NOH & NON-PARTY
24	CISCO SYSTEMS, INC., RICHARD	MARK CHANDLER'S MOTION TO QUASH SUBPOENA
25	FRENKEL, MALLUN YEN, & JOHN NOH,	Q on so Dr o Drive
	Defendants.	
26		J
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#### I, RICHARD FRENKEL, declare and state as follows:

- My name is Richard Frenkel. I am over twenty-one years of age, competent in all respects and authorized to execute this Declaration. All of the matters stated herein are true and correct and are within my personal knowledge.
- I am an attorney and member of the California Bar since 1999, and I am licensed to 2. practice in California. I was at all times material to the underlying lawsuit that forms the basis of the subpoena at issue (the "Underlying Lawsuit") a Director, Intellectual Property—Consumer and Emerging Technologies of Cisco Systems, Inc. ("Cisco")
- 3. On May 9, 2007, I began a news-oriented website called the "Patent Troll Tracker." I used Google's Blogger service as my web hosting provider, and maintained an email account with Google using Google's Gmail software. My stated goal, in my very first post, was "to educate the world on how many patent cases are out there that are filed by trolls," which I defined as "corporations that make no products, but do nothing but acquire patents to sue and make revenue." I continued that education by providing regular news articles about cases filed by non-practicing entities colloquially known as "patent trolls."
- The Patent Troll Tracker website continued until late February 2008. During these 4. nine months, I published over 180 articles about different facets of patent litigation and "patent trolls." Patent Troll Tracker was published regularly. For example, I had a monthly installment where I would review the patent litigation statistics from the previous month, and report on litigation filed by non-practicing entities. I called this my "Troll Call." Besides the monthly feature, I would try to have an assortment of stories, about two or three per week, focusing on different interesting cases and the debate on patent reform issues.
- Until earlier this year, I published the Patent Troll Tracker website anonymously. I 5. voluntarily disclosed my identity on the website on February 23, 2008. After I revealed myself to be an attorney employed by Cisco, my employer and I were sued in Texas by Eric M. Albritton ("Albritton") for defamation relating to an article I posted on October 18, 2007. The article concerned a lawsuit filed on behalf of ESN, LLC by Albritton in U.S. District Court for the Eastern District of Texas. Cisco was one of the defendants in that litigation.

- 6. As part of the subpoena issued by Albritton, Google, Inc. ("Google") has been asked to produce documents regarding sources and unpublished information that I used to gather and report news about patent litigation on my Patent Troll Tracker website. The subpoena also attempts to compel Google to produce unpublished documents that I obtained and used for preparation of my communications to the public on my Patent Troll Tracker website.
- 7. Throughout the entire publication of Patent Troll Tracker, I engaged in newsgathering activities for the purpose of reporting on news about patent litigation and the debate regarding patent reform. In doing so, I made use of Google software. For example, I used the Google Blogger service to publish my many articles. In addition, I used the Google Gmail email software to communicate with others who would send me "leads"

I declare under penalty of perjury that the foregoing is true and correct. Executed on September 4, 2008.

Richard Frenkel

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